

REMARKS/ARGUMENTS

Claims 2, 4-16, and 19-35 are currently pending. Claims 1, 3, 17 and 18 were previously canceled. Claim 19 is amended herein to correct minor typographical errors present in the previously submitted claims. Applicant acknowledges receipt of the above-identified Office Action, and respectfully traverses the Office Action in its entirety.

Rejections Under 35 U.S.C. §103(a)

Claims 2, 4, 5-16, and 19-35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0172010 to Butani et al. (“Butani”) in view of U.S. Patent No. 6,865,567 to Oommen (“Oomen”). Applicant respectfully traverses. As described in the specification and recited in the claims, the instant claims are directed to a method and system for consolidating two computing devices, wherein information indicative of system parameters of the computing devices is stored in respective data sets. The system parameters of the computing devices are loaded into a relational database, and SQL queries are performed against the relational database. The results of these SQL queries are used to determine at least one aspect of the system parameters that differs between the first computing device and the second computing device. The differences are depicted in a visual display, thereby allowing a user to determine whether to consolidate programs or data from the first computing device with that of the second computing device.

By contrast, Butani is directed to systems and methods which “analyze and compare data, such as data contained in a bill of materials” (paragraph [0002]). More specifically, Butani discloses “determining the impact of one or more changes on a set of [bill of materials] data”, the results of which are “displayed in a manner that allows a user to compare the results of different analysis procedures and identify differences in those results” (paragraph [0014], emphasis added).

It is respectfully submitted that Butani is so far outside the field of Applicant’s invention as to be irrelevant to the claimed invention. Put another way, one properly skilled in the art would not be motivated to look to Butani in attempting to consolidate computing systems, in part because Butani does not teach or suggest consolidation of computing resources, storing computing device system parameters (i.e., information describing the computing device) in data files, loading computing device system parameters into a relational database, or using SQL queries to compare computing device system parameters for consolidation purposes. At best, the

Examiner hypothecates that since a digital camera is illustrated in Fig. 7, that is sufficient inspiration for one skilled in the art to contemplate that computing system consolidation analysis might be possible using Butani's system. Again, Butani's system is directed toward analysis of bills of material and the impacts of changes to the bills of material. Furthermore, Butani's explanation of Fig. 7 merely states that a digital camera can be attached to a computer system. The Examiner's suggestion that one skilled in the art would, absent some additional motivation (e.g., hindsight), therefore be motivated to make the significant mental leap from bills of material analysis to computing system consolidation based on this single illustration and recitation of a commonly known fact (i.e., that a digital camera can be hooked up to a computer) is without basis in fact. It is respectfully submitted that no legitimate rationale has been provided as to why one skilled in the art of server consolidation would look so far outside the field of endeavor as to look to Butani. It is therefore respectfully requested that the Examiner either provide additional substantiation to use of Butani and the assertions made regarding the suggestion of consolidation, or withdraw the rejection.

Even if, *arguendo*, it were accepted that Butani were proper prior art, it is also respectfully submitted that neither Butani nor Oommen, either alone or in combination, teaches or suggests all elements of Applicant's claims. It is well settled that, for references to render obvious a claimed invention, all elements of the claimed invention must be present in the references. Applicant's claimed invention is directed to consolidation of computing devices, and it is respectfully submitted that Butani fails to teach or suggest computing system consolidation, and that Oommen does not expressly or impliedly disclose such consolidation either. In the Office Action, it is asserted that Figs 1 and 2 suggest consolidation of computing devices. In paragraph [0017], Butani states that Fig. 1 illustrates an exemplary environment capable of analyzing and comparing data from a bill of materials. Such analysis may include the impact of changes to a set of data and comparison of two different sets of data to identify differences in the data. It is respectfully submitted that Fig. 1 does not does not teach or suggest consolidation of computing resources. Similarly, in paragraphs [0022] and [0023], Butani discloses that data collection module 200 is coupled to multiple data sources, and may create the appearance of a uniform data source by transforming the data received from the multiple data sources into a common format. It is respectfully submitted that such transformation is not the same as consolidation. In consolidation, the resources of a first computing device are transferred to a

second computing device, thereby freeing the first computing device for other purposes. By contrast, in Butani, while the data collection module may store and/or transform information received from other data sources, the content of the other data sources remains unchanged and is allowed to persist. In addition, as described above, Applicant respectfully traverses the Examiner's assertion that the mere presence of the depiction of a digital camera in Fig. 7 is sufficient to motivate one skilled in the art to perform computer system consolidation. It is respectfully submitted that the Examiner has failed to show how Oommen corrects these deficiencies. Applicant therefore respectfully asserts that a prima facie case for obviousness has not been made, and respectfully requests that the Examiner withdraw the rejection.

Still further, even if, without admission, Butani and Oomen are seen as disclosing all elements of Applicant's claimed invention, Applicant respectfully asserts that the combination thereof would not have been obvious absent the hindsight provided by Applicant's invention. A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. KSR Int'l Co. v. Teleflex, 127 S.Ct 1727, 1741 (2007). As former Chief Judge Markey of the Federal Circuit has stated, "virtually all inventions are 'combinations', and ... every invention is formed of 'old elements' Only God works from nothing. Man must work with old elements." H.T. Markey, *Why Not the Statute?* 65 J. Pat. Off. Soc'y 331, 333-334 (1983). The factfinder should be aware of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. KSR Int'l Co. v. Teleflex, 127 S.Ct at 1742. In determining whether a claimed invention is an obvious combination of prior art references, it must be shown there is an apparent reason to combine the known elements in the fashion claimed. Id. at 1741. To facilitate review, this analysis should be made explicit. Id. The Examiner has not advanced a sufficient rationale as to why a person skilled in the art would have been motivated to combine Butani and Oommen without the benefit of hindsight. Applicant therefore respectfully requests that the Examiner withdraw the rejection.

CONCLUSION

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. Additional characteristics or arguments may exist that distinguish the claims over the prior art cited by the Examiner, and Applicants respectfully preserve their right to present these in the future, should they be necessary. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is courteously requested to contact applicant's undersigned representative.

AUTHORIZATION

The Commissioner is authorized to charge any additional fees associated with this filing, and credit any overpayment, to Deposit Account No. 19-3790. If an extension of time is required, this should be considered a petition therefor. If the fees associated with a Request for Continued Examination are filed herewith, this should be considered a petition therefor.

Respectfully submitted,

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